

### **REMARKS**

This responds to the Restriction Requirement dated July 17, 2008 (hereinafter "Restriction Requirement").

Claims 13, 16, 18-19, 24-25, 28, 32 and 36 were previously withdrawn and claims 1-10 were previously cancelled without prejudice or disclaimer. Claims 11, 13-14, 16-17, 19, 21, 24, 26 and 36 are currently amended. No claims are new. Applicant submits that the claim amendments are fully supported by the present patent application, such as at [0006], [0019], [0021] and FIGS. 1-2.

Accordingly, Applicant hereby respectfully requests further examination and reconsideration of claims 11-12, 14-15, 17, 20-23, 26-27, 29-31 and 33-35 and, if generic claims 11 and 30 are found allowable, claims 13, 16, 18-19, 24-25, 28, 32 and 36 as well.

#### **Telephonic Interview Summary**

Applicant thanks Examiner Nissa Westerberg for extending a helpful telephonic interview with Applicant's representative Gregory Smock on August 12, 2008. Clarification regarding the Restriction Requirement's first species election was discussed. Examiner Westerberg indicated that the required presence of one or more listed elements could be elected to form the punctal plug embodiments which will initially be searched and examined.

#### **Request for Telephonic Interview**

Should the Examiner have any questions regarding this preliminary amendment and response, Applicant kindly requests a telephonic interview between the Examiner and Application's representative, Gregory Smock, to help expedite examination.

#### **Election/Restriction**

The Restriction Requirement asserts restriction of the claims based on the following species elections under 35 U.S.C. § 121:

**(1) First Species Election Requirement**

Applicant is required to elect which, if any, of the following components must be present in the punctal plug:

- An exposed medication-discharging supply of the active agent
- Stem
- Outer stopper structure
- Inner stopper structure

If the presence of an exposed medication-discharging supply is elected, Applicant is also required to elect if the presence of agent-discharging bands is required and if the agent is disposed on all external surfaces of the plug body.

**(2) Second Species Election Requirement**

Applicant is required to elect if the active agent is a medicine or is an active agent that is not a medicine. If a medicine is elected, Applicant is further required to the active agent present. Examples of acceptable species can be found in claims 16 and 17.

Applicant elects, without traverse, to initially prosecute punctal plugs requiring an exposed medication-discharging supply of an active agent, as indicated by the amended independent claims. While the currently recited punctal plugs can include one or more of a stem, an outer stopper structure or an inner stopper structure, such elements are not required. Similarly, while the exposed medication-discharging supply of the active agent can be disposed in one or more agent-discharging bands or on all external surfaces of the punctal plug body, such exposed supply arrangements are not required. Applicant further elects, without traverse, to prosecute punctal plugs including one or more active agents in the form of a medicine configured for treatment of an eye.

Applicant submits that claims 11-12, 14-15, 17, 20-23, 26-27, 29-31, and 33-35 are readable on the elected species and respectfully requests examination and reconsideration of the same.

Applicant previously withdrew claims 13, 16 and 18-19 and cancelled claims 1-10

without prejudice or disclaimer, and reserves the right to re-introduce such claims later in the examination of this patent application or in one or more later-filed continuation or divisional patent applications claiming the benefit of priority of the present patent application. Applicant submits that at least claim 11 is generic to claims 13-29, and at least claim 30 is generic to claims 31-36. If claim 11 is found allowable, then claims 13-29 should also be found allowable. If claim 30 is found allowable, then claims 31-36 should also be found allowable.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited and encouraged to telephone Applicant's attorney at (612) 373-6956 to facilitate prosecution of this application.

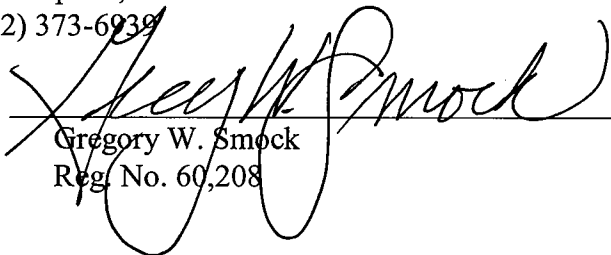
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date August 18, 2008

By

  
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 18<sup>th</sup> day of August 2008.

Name

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Signature

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